

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CRIMINAL ACTION
: :
v. : :
: :
EDUARDO GREGORIO AZOCAR : NO. 16-137

MEMORANDUM

Bartle, J. January 17, 2024

Defendant Eduardo Gregorio Azocar has filed a pro se motion to reduce his sentence under 18 U.S.C. § 3582(c)(2). He relies on Amendment 821 to the United States Sentencing Guidelines, which provides for a two-level downward adjustment in the offense level for certain offenders who have no criminal history points. U.S. Sent'g Comm'n, Amendment 821, <https://www.ussc.gov/guidelines/amendment/821> (last visited Jan. 17, 2024). The Sentencing Commission has made the Amendment retroactive. Id.

Azocar pleaded guilty to one count of attempt to distribute five kilograms or more of cocaine, knowing that the cocaine would be imported into the United States (21 U.S.C. §§ 959(a), 960(b)(1)(B) and 963) and one count of distribution of 500 grams or more of cocaine, knowing that the cocaine would be imported into the United States (21 U.S.C. §§ 959 and 960(b)(2)(a) and 18 U.S.C. § 2). In February 2020, after being extradited to Philadelphia, he pleaded guilty to both offenses.

He was sentenced to 151 months imprisonment in July of 2020. At his sentencing, the Court added to the base offense level of 32 a three level enhancement under § 3B1.1 for his supervisory role in the offense. See U.S. Sent'g Guidelines Manual § 3B1.1 (U.S. Sent'g Comm's 2023).

Amendment 821, which as noted applies retroactively, contains a number of exceptions to the award of a two-level downward adjustment for an offender who has no criminal history points. One of the exemptions prohibits the downward adjustment if the defendant received an adjustment under § 3B1.1 for his or her aggravating role in the offense. See id. at §§ 4C1.1, 1B1.10. Because defendant received such an enhancement at his sentencing, he is not eligible for a sentence reduction as a zero-point offender.

Accordingly, the defendant's motion under 18 U.S.C. § 3582(c) (2) will be denied.